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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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07/27/2005

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EXAMINER

SZYMANSKI, THOMAS M

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,968

Applicant(s)

LETSINGER, REED

Examiner

Thomas Szymanski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/27/2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

RD

DETAILED ACTION

1. Claims 1-21 have been examined.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The applicant is requested to review the specification and update the status of all co-pending applications made mention of, replacing attorney docket numbers with current U.S. application or patent numbers when appropriate. References to U.S. applications or patents should make it clear as to what the number refers (e.g. U.S. Patent No. #), instead of listing only the number.
4. The disclosure is objected to because of the following informalities: The section labeled Disclosure of the invention is improper; the title should be changed to read Summary of The Invention.
5. The section labeled Best Modes for Carrying Out the Invention is improper; the title should be changed to read Detailed Description.

Appropriate correction is required.

Drawings

6. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

7. Applicant is advised that should claim 14 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Crosbie U.S. Publication No. 2002/0035699.

10. Regarding Claims 1 and 10: activating a first communication device for communication with a service (Fig 6, par. 0046) Within the system of Crosbie the first device is activated upon request by the second for a connection with the service, as such anticipating that which is claimed.

A second communication device storing an identifier for wireless transmission (Fig 6, Fig 1, par 0046) As stated the second device must store the user and device identifiers in order to be able to transmit them for access.

Accessing the service by a first communication device while in range with the second device (Fig 1, Fig 2, par 0046, 0048) The service is only accessible if a connection can be established within a reasonable range of the first device for access to the provided services as within the given figures.

11. Regarding Claims 2 and 11: First device requires a device identifier from the second device (par 0048) The first device requires such an identifier since it is required by the service for reasons of authentication, without such an identifier the connection could not be established.

12. Regarding Claims 3 and 12: First device requires a proximal location to the second device to receive said device identifier (par 0035) As stated it is necessary for

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the second device to be within a range that is reasonable for receiving packets in order to connect and authenticate.

13. Regarding Claims 4 and 13: First device can store only one device identifier (par 0014 lines 8-10) Crosbie states that the device stores a single device identifier.

14. Regarding Claims 5, 14 and 17: Second device has reduced wireless signal strength (par 0035) As stated it is necessary for the second device to be within a range that is reasonable for receiving packets in order to connect and authenticate, therefore it can be said that the second device has a reduced wireless signal strength as a function of proximity to the first device.

15. Regarding Claims 6 and 18: Second device provides a user identification to the first device (par 0046, 0048) The first device requires such an identifier since it is required by the service for reasons of authentication, without such an identifier the connection could not be established.

16. Regarding Claims 7 and 19: Second device provides user ID to the first device only upon initial access (par 0033, 0034, 0035, fig 6, 7) Crosbie states that the user ID is provided for purposes of authentication upon entering a wireless zone. Therefore as one stays within a given zone the ID is provided once.

17. Regarding Claims 8 and 20: Second device provides user ID to the first device intermittently upon access (par 0033, 0034, 0035, fig 6, 7) Crosbie states that the user ID is provided for purposes of authentication upon entering a wireless zone. Therefore as one enters and exits a zone it is provided intermittently at the rate with which the zone is within the presence of the second device.

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18. Regarding Claims 9 and 21: Second device provides user ID to the first device constantly upon access (par 0033, 0034, 0035, fig 6, 7) Crosbie states that the user ID is provided for purposes of authentication upon entering a wireless zone. Therefore as the gateway server determines it may be necessary for the system as described to constantly provide such means in order for continuation of authorization for the activities endured by the second device.

19. Regarding Claims 15 and 16: Second device can be worn or carried in a wallet (Fig 1 28-2) The system of Crosbie provides for the use of several wireless devices that can be worn or placed in a wallet such as a PDA (28-2).

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of art disclosed by the references cited and the objections made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

21. Inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas M. Szymanski who can be reached at (571) 272-8574. The examiner's normal working schedule is between the hours 8:00am – 4:30pm (EST), Monday – Friday.

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22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). JL

David Y. Jung
Primary Examiner

7/20/05

